

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

JOSHUA MELLO and RACHEL WARE,
Plaintiffs,

vs.

JOHN ROCCHIO and
EDWARD ARRUDA
Defendants

C.A. No. 1:23-cv-00480-JJM-PAS;
1:23-cv-000479-JJM-PAS

**DEFENDANTS, JOHN ROCCHIO AND EDWARD ARRUDA’S OBJECTION TO
PLAINTIFFS’ MOTION FOR A PROTECTIVE ORDER**

Now come Defendants, John Rocchio and Edward Arruda (collectively hereinafter “Defendants”) and hereby object to Plaintiffs, Joshua Mello’s (“Plaintiff Mello”) and Rachel Ware’s (“Plaintiff Ware”) (collectively hereinafter “Plaintiffs”) Motion for a Protective Order for the reasons stated herein.

Plaintiffs fail to set forth any facts that set forth they are entitled to a protective order. For this Court to issue a protective order, under Fed. R. Civ. P. 26(c), Plaintiffs, “must set forth ‘particular’ facts to establish ‘good cause’ for that order.” Souza v. R.I. Carpenters’ Pension Plan, C.A. No. 05-186-S, 2006 U.S. Dist. LEXIS 105745 at *1 (February 16, 2006)(citing Anderson v. Cryovac, Inc. 805 F.2d 1, 7-8 (1st Cir. 1986)). While Plaintiffs request that this Court issue a protective order that requires Defendants’ counsel to ask relevant and non-prejudicial questions, adhere to proper procedures for raising objections, limit the time for each deposition to three and a half (3.5) hours, and that both parties conduct themselves in a “professional manner,” Plaintiffs’ requests are made without any factual basis.

Plaintiffs’ motion fails to provide any indication that Plaintiffs’ will be examined prejudicially, or that Defendants will not follow the Federal Rules of Civil Procedure. Plaintiffs’

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lawsuit is based on Plaintiff Mello allegations that the Defendants used excessive force when they arrested him on October 21, 2021, at Western Hills Middle School. The Complaint also claims that Plaintiff Mello “suffered from financial, emotional, and reputational damages as a result of this incident.” In addition, Plaintiffs’ “Answer to Defendants’ Partial Motion to Dismiss for Failure to State a Claim,” Plaintiffs allege that “Ms. Ware’s involvement in the lawsuit is essentially due to the profound emotional pain she endured as a result of witnessing the misconduct perpetrated against her husband,” and that “Ms. Ware has also suffered significant financial hardship directly attributable to her involvement in the lawsuit.” ECF. No. 28. Further, Under Rule 30, Defendants are entitled to examine Plaintiffs regarding the allegations that they made in the Complaint. See Fed. R. Civ. P. Rule 30; see also Souza, 2006 U.S. Dist. LEXIS 105745 at *3. Under Rule 30(d), a deposition is limited to one day of seven (7) hours. See Fed. R. Civ. P. Rule 30(d).

Having commenced this litigation, Plaintiffs necessarily opened themselves up to discovery, including Defendants’ right to take their depositions. See Souza, 2006 U.S. Dist. LEXIS 105745 at *3. As such, Defendants are entitled to ask Plaintiffs questions relating to their allegations relating the events surrounding Plaintiff Mello’s arrest on October 21, 2021, his claims for “financial, emotional, and reputational damage,” and Plaintiff Ware’s emotional distress and financial claims in their depositions for the time limit set forth by Rule 30.

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Defendants
Edward Arruda and John Rocchio
By their Attorneys,

/s/ Julia K. Scott- Benevides

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CERTIFICATION

I hereby certify that the within document has been electronically filed with the Court on the 18th day of June, 2024, and is available for viewing and downloading from the ECF system.

I further certify that a true and accurate copy of the within was emailed and mailed, postage prepaid, to:

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/s/ Julia K. Scott- Benevides